

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHERRI SHEER :
: CIVIL ACTION
Plaintiff, :
v. : **Docket No. 02-CV-02719**
: **APPLIED DIGITAL SOLUTIONS, INC.,** :
f/k/a **APPLIED CELLULAR** :
TECHNOLOGY, INC., INTELLESALE, :
INC., f/k/a UNIVERSAL COMMODITIES :
CORPORATION, MICHAEL KRAWITZ, :
et al. :
Defendants. :

APPLIED DIGITAL SOLUTIONS, INC. :
and **INTELLESALE, INC.** :
: Third-Party Plaintiffs :
v. :
: **MARC SHERMAN,** :
: ORAL ARGUMENT REQUESTED
Third-Party Defendant. :

**MOTION OF THIRD-PARTY DEFENDANT MARC SHERMAN
TO DISMISS THIRD-PARTY COMPLAINT**

Third-Party Defendant Marc Sherman hereby moves this Court for an Order, pursuant to F.R.Civ.P. 12(b)(6), 14(a), and 9(b), dismissing the Third-Party Complaint against him for improper pleading and failure to state a claim upon which relief can be granted. The relevant facts and legal grounds for this Motion are set forth in the attached Memorandum of Law, and the Third-Party Complaint served upon Mr. Sherman and attached thereto.

ORAL ARGUMENT OF THIS MOTION IS RESPECTFULLY REQUESTED.

Respectfully submitted,

SPECTOR GADON & ROSEN, P.C.

Dated: August 6, 2002

By: _____

Paul R. Rosen, Esquire

David B. Picker, Esquire

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Attorneys for Third-Party Defendant

Marc Sherman

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CERTIFICATE OF SERVICE

David B. Picker hereby certifies that I am not a party to this action, that I am over the age of 18 years, and that on this 6th day of **August, 2002**, I caused a true and correct copy of the foregoing Motion to Dismiss Third-Party Complaint upon Plaintiff's and the Defendants' and Third-Party Plaintiffs' counsel, by postage-prepaid United States Mail, as follows:

Richard Kwasny, Esquire
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(Attorney for Defendant and Third-Party Plaintiff)

Dated: August 6, 2002

David B. Picker